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SEP 02 2004

In re Application of	:	OFFICE OF PETITIONS
Lupoi, et al.	:	
Application No. 10/753,655	:	DECISION GRANTING PETITION
Filed: January 7, 2004	:	
Attorney Docket No. 600920012	:	

This is a decision on petition filed May 4, 2004, requesting that the above-identified application retain the presently accorded a filing date of January 7, 2004, with pages 80, 82, 89, and 90 of the specification as part of the original disclosure.

On January 7, 2004, the above-identified application was filed. On April 20, 2004, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Nonprovisional Application" (the "Notice"), stating that the application had been accorded a filing date of January 7, 2004, however, pages 80, 82, 89, and 90 of the specification appeared to have been omitted. The Notice allowed a non-extendable two-month period for reply beginning from the mailing date of the Notice.

In response, on May 4, 2004, applicants filed the instant petition along with a copy of the Office date-stamped postcard acknowledging receipt of 94 pages of the specification January 7, 2004, and a copy of the allegedly omitted pages.

Upon review of the record, pages 80, 82, 89, and 90 of the specification have not been located among the application papers. However, the evidence is convincing that the application papers deposited January 27, 2004, included pages 80, 82, 89, and 90 of the specification that were subsequently misplaced by the Office. Therefore, the application, including pages 80, 82, 89, and 90 of the specification, were complete on filing and entitled to the presently accorded filing date of January 7, 2004.

Accordingly, the petition is granted; the language in the Notice relative to the omitted figure is vacated, accordingly. The petition fee of \$130.00 will be refunded in due course.

The application file is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of January 7, 2004, using the 94 pages of specification filed on that date.

Any inquiries related to this decision should be directed to the undersigned at (703) 305-0010.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND					
1 Date of Request: <u>9/1/04</u>		2 Serial/Patent # <u>10/753,655</u>			
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